



KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 11-115A	PAGE NUMBER 1 of 14
		DECISION MAKING: Sex Offender Treatment, Management and Supervision	
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POLICY STATEMENT

Sex offenders under the custody and supervision of the Secretary of Corrections shall be identified, treated, managed and supervised in accordance with policies and procedures outlined in this policy.

Sex offenders shall be assessed for risk/need related to sex offending and receive treatment during incarceration and/or during post-release supervision based on assessed risk/need. Offenders managed as sex offenders due to a current or prior conviction, a finding of sexual motivation by a court, or by Override Panel decision shall be notified of that in writing and shall be advised that they will be managed as sex offenders.

Nothing in this IMPP is intended to alter or abrogate any provisions of Kansas statutory law relating to sexually violent predators or the registration of sex offenders.

DEFINITIONS

Contact: Can include a visit, including limited-contact or non-contact visit, as defined by visitation policies, or contact by phone, email or regular mail.

Multidisciplinary Team (MDT): Individuals selected by the Secretary of Corrections or designee for the express purpose of assessing whether or not a person may meet the definition of a sexual violent predator.

Polygraph: An instrument that records certain physiological changes in a person undergoing questioning in an effort to ascertain truth or deception.

Prison Rape Elimination Act (PREA): Prison Rape Elimination Act of 2003, codified at 42 U.S.C. 15601, *et seq.*, an act signed into law with the goal of preventing, detecting, and responding to sexual abuse occurring in confinement facilities.

Safety Plan: A written detailed explanation of events. For sex offender management, a sex offender shall complete a safety plan detailing the minors who will be at the event and the supervising agent for those minors. A safety plan shall identify all potentially high risk situations and how those situations will be handled.

Sex Offender: An offender who will be managed by the KDOC as a sex offender and be bound by rules related to sex offenders, unless an override removes any or all of those conditions, and who shall be identified as any offender who:

- Has a current conviction for which s/he is incarcerated that is a sex offense;
- Has a past conviction for a sex crime, felony or misdemeanor, as an adult;
- Has a current or past journal entry that is marked with the Sexually Motivated Indicator [SMI];

- Has a past adjudication for a sex crime as a juvenile;
- Has one or more past municipal ordinance violations that are sex crimes, and which, after a due process hearing under this policy, is/are determined to be sexually motivated;
- Has a charge for a sex crime, currently or in the past, and for which charge the prosecutor's affidavit is available; and who, after a due process hearing under this policy, is determined should be managed as a sex offender because the charged behavior was sexually motivated; or
- Whose sexual behavior during incarceration or while in the community following incarceration has been documented by a disciplinary conviction or revocation of post-incarceration supervision, and which then leads to the offender receiving an override to be managed as a sex offender.

EXCEPTIONS: Offenders with convictions under K.S.A. 21-6419, Selling Sexual Relations; 21-6420(a) and (b)(1), Promoting the Sale of Sexual Relations; 21-6421, Buying Sexual Relations; and/or 21-5426, Aggravated Human Trafficking without a finding under (b)(2) or (b)(4) of a purpose of sexual gratification shall not be managed as sex offenders.

The override panel can override an offender out of being managed as a sex offender. Upon a new admission, an offender granted an override out of being managed as a sex offender in a previous incarceration shall be reviewed by the Director of Sex Offender Management or designee to determine whether the override should be removed based on behavior in the facility or community.

Sex Offender Treatment Provider: A licensed clinical person with the skills and training to deliver sex offender treatment and with whom the KDOC has contracted to provide sex offender treatment in the facilities and in the community.

Sexually Explicit Materials: Any material that describes or depicts human nudity, exploitation of children, consensual sex acts, non-consensual sex acts involving force or violence, or any other material deemed to be sexual stimulating (by the provider, unit team or parole) including, but not limited to, the following forms: hard copy (e.g., magazine, photo, etc.); computer programs, computer links, computer social networking sites, photographs, drawings, video/audio tapes, CDs/DVDs, flash drives, cell phones or any digital storage device containing photographs displaying nudity, magazines, books, literature, writings. Sexually stimulating material may look different for each offender (e.g., an offender is aroused by cartoon characters, feet, etc.).

Sexually Motivated Behavior: Behavior that was undertaken or committed for the express purpose of sexual gratification of the offender.

Sexually Motivated Indicator (SMI): A finding by a court reflected in a journal entry, that the crime(s) for which the offender was incarcerated (past or current) was/were committed for the express purpose of sexual gratification.

Sexually Violent Predator (SVP): A person who has been adjudicated under K.S.A. 59-29a02, *et seq.*

Victim: Any person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime against a person.

Victim's Family: Consistent with K.S.A. 74-7555, "Victim's family" means spouse, surviving spouse, children, parents, legal guardian, siblings, stepparent or grandparents.

PROCEDURES

I. Admission

- A. At admission, offenders who are to be managed as sex offenders as defined above shall be identified by review of conviction or adjudication documents and a criminal history check. An entry shall be made in OMIS during the admission process reflecting that the offender is to be managed as a sex offender. The offender shall be notified in writing that s/he will be managed as a sex offender, and of the basis for this decision.

1. If a due process hearing is required before the offender can be managed as a sex offender per the definition section of this policy, the due process hearing shall be conducted at RDU whenever possible; if information is gained after the offender is transferred from RDU, the facility shall contact the Sex Offender Specialist in Reentry in Central Office, and the two together shall ensure a due process hearing is conducted.
- B. An offender not identified as a sex offender at admission may be identified as a sex offender:
 1. By the Sex Offender Specialist in Reentry in Central Office, if additional information, such as a journal entry, is received indicating the offender should be managed in keeping with this policy; or
 2. By an override for sexual behavior occurring during incarceration or while on post-incarceration supervision.
- C. Once an offender has been identified as one to be managed as a sex offender, s/he shall continue to be managed as a sex offender unless/until the offender receives an override from being managed as one.
 1. If an offender received an override from being managed as a sex offender during a previous incarceration, that override shall apply at the current admission, and the offender shall not be identified as a sex offender at admission, unless there has been behavior in the facility or in the community since the override that warrants removing the override.
 - a. If an offender had a previous override not to be managed as a sex offender and is now readmitted, RDU shall forward that case to the Sex Offender Specialist in Reentry, who shall review the case and determine whether to maintain or remove the override.
 - b. If the override is removed:
 - (1) A note shall be made in OMIS indicating this fact and the reason(s) therefor; and
 - (2) An email shall be sent to the Classification Administrator where the offender is housed, who shall notify the offender of the change, directly or through a designee, and this notification shall be noted in TOADS.
- D. Sex offenders shall be screened related to housing, employment, and programming per PREA, in accordance with IMPP 10-139, both at admission and on an ongoing basis during incarceration.
- E. Any offender (whether managed as a sex offender or not) who meets the criteria listed in K.S.A. 59-29a02(e)(1)-(10) shall be flagged at admission in OMIS, Screen 18, as an offender to be screened by the Multi-Discipline Team under the Sex Predator Act within 12 months of release (or less, if the sentence is less than 12 months), per IMPP 11-116.
- F. In addition to the Level of Services Inventory-Revised (LSIR) and mental health assessment completed at RDU for all offenders per IMPP 11-102, a sex offender shall be assessed by the Sex Offender Treatment Provider for level of risk/need related to sex offending behavior, using evidence-based assessment instruments and strategies, to determine his/her sex offender treatment needs. Based on this assessment, a recommendation shall be made regarding treatment that indicates either:
 1. The offender needs treatment during incarceration, in a moderate or high dose; or
 2. The offender is low risk enough that s/he does not need sex offender treatment.

- a. If the offender is identified as low risk so as not to need sex offender treatment, RDU staff shall include a recommendation that the offender be considered for an override from being managed as a sex offender after transfer out of RDU.
 - b. If an offender is identified as low risk so as not to need sex offender treatment, and later sexual conduct suggests the offender is higher risk than found at admission, the offender shall be reassessed and his/her treatment needs adjusted if/as reflected by the reassessment.
- G. When completing the inmate program plan (IPP) for sex offenders under IMPP 11-107, RDU staff shall reflect the level of treatment recommended on the inmate program plan.

II. Management During Incarceration

- A. After transferring from RDU to a correctional facility, the offender shall meet with his/her assigned unit team counselor to develop and implement a case plan per IMPP 11-106. When working with a sex offender to involve him/her in programs, the following rules and concepts shall apply:
 - 1. Address sex offender treatment based on recommendations by the Sex Offender Treatment Provider, ensuring a referral and placement is timely made.
 - a. If the Sex Offender Treatment Provider concludes, upon referral, that the offender does not need SOTP, SOTP shall be removed from the offender's IPP, without requiring an override.
 - b. Facility staff shall work with SOTP staff to review referrals, or screen sex offenders off a waiting list for SOTP, to determine level of treatment needed before transferring the offender to Lansing or Hutchinson whenever possible.
 - 2. Address other program needs of sex offenders, with the understanding that sex offenders cannot receive program credit for SOTP, and if SOTP is required, cannot receive program credit for any eligible program until after SOTP is successfully completed.
 - a. If a sex offender is identified by the treatment provider as low risk so as not to need SOTP, that sex offender shall be eligible for program credit for eligible programs without the requirement that s/he first complete SOTP.
 - 3. Before a sex offender is enrolled in work release, a parenting program, a substance abuse program, or a Thinking for a Change group, including offenders with mental illness, s/he shall be screened by the Director of Sex Offender Management or designee.
 - a. It is not necessary or advisable to seek an override from "managed as" for a sex offender to go into one of these designated programs. Rather, the sex offender can be screened for appropriateness for placement.
 - b. The sex offender who is required to complete SOTP shall not enroll in work release before completing SOTP, consistent with IMPP 15-101.
- B. Offenders who require sex offender treatment during incarceration shall be referred to sex offender treatment in a timely manner so sex offender treatment can be completed before release.
 - 1. Each facility shall establish a method for unit team counselors to make referrals to sex offender treatment no later than 18 months pre-release, or immediately if the sentence is less than 18 months but more than 8 months. This shall be done in collaboration with the Sex Offender Treatment Provider. The facility shall screen offenders for referral to ensure they are suitable to be housed at a facility where treatment is provided. The Sex Offender Treatment Provider shall screen the offender for treatment readiness and placement.

2. If an offender who is required to receive sex offender treatment during incarceration refuses treatment, the unit team counselor, after consultation with the treatment provider and after addressing readiness and using motivational interviewing, EPICS, and other tools to attempt to engage the offender in treatment, shall inform the offender that s/he shall not be awarded good time credit per K.A.R. 44-6-115a. This shall be documented in TOADS in a contact note, and the offender shall have good time credit withheld.
 3. Once an offender is placed in sex offender treatment, the treatment provider and unit team counselor shall stay in communication to track progress and as needed to address disciplinary reports or other behavior issues, mental health issues, housing or job assignment issues, safety concerns, visitation, property, or any other issues that arise that are impacted by or that impact treatment, and to address progress.
 4. The treatment provider shall provide the unit team counselor a progress report halfway through treatment and shall complete a discharge summary within 10 business days of conclusion of treatment, providing a copy to the assigned unit team counselor.
 5. When a sex offender successfully completes sex offender treatment, this shall be reflected in the sex offender's case plan.
 - a. The discharge summary and any relapse prevention or successful living plan completed during treatment shall be consulted to guide case planning and case management, including release planning.
 - b. If the sex offender previously completed a program for which program credit can be awarded, program credit shall be awarded for that past program during the current incarceration.
- C. Other Sex Offender Management Issues
1. Visits and Other Contacts
 - a. Persons below the age of 18 who are members of the offender's immediate family shall be permitted visits, telephone contact, mail contact or email contact with incarcerated sex offenders only through the override process.
 - (1) Visits with persons below the age of 18, when approved by an override, shall be conducted consistent with K.A.R. 44-7-104, IMPP 10-113, and General Orders.
 - (2) Telephone contact with persons below the age of 18, when approved by an override, shall be conducted consistent with K.A.R. 44-12-211, IMPP 10-111 and General Orders.
 - (3) Email contact with persons below the age of 18, when approved by an override, shall be conducted consistent with K.A.R. 44-12-212.
 - (4) Mail contact with persons below the age of 18, when approved by an override, shall be conducted consistent with K.A.R. 44-12-601.
 - f. A sex offender who has had a minor victim at any time may not request an override for contact with a person below the age of 18 until after s/he has successfully completed sex offender treatment.
 - (1) Except that an offender whose only conviction(s) with a minor victim involved unlawful voluntary sexual relations under K.S.A. 21-5507 (or any earlier version of the "Romeo and Juliet" statute) may request an override for contact with a person below the age of 18 before treatment is successfully completed.

- g. A sex offender who has only had adult victims may request an override for contact with a person below the age of 18 before treatment consistent with K.A.R. 44-12-211, 44-12-212, and 44-12-601. (As a general rule, inmates may not contact minors, with only two exceptions: for minor family members and for those minors whose parent or guardian has provided express written consent for the contact to take place.)

2. No Contact with Victims or Victims' Families

- a. Except as indicated below, a sex offender is prohibited from contact with his/her victim(s) by any means including visits, telephone, email or regular mail, regardless of age.
- b. Consideration for contact with victim or victim's family shall not occur unless:
 - (1) The victim(s) or family member, or a minor victim/family member's parents or guardians, seek such contact through the KDOC Victim Services division;
 - (2) A current recommendation by the SOTP provider does not preclude contact with one or more known victims; and,
 - (3) If the victim resides with the victim's family member seeking the contact, there are no indications that the request by the family member is being made to circumvent the prohibition on contact with the victim, and/or the family member is told clearly that contact with the family member shall not result in contact with the victim (e.g., handing the phone to the victim, passing mail to the victim).

If (1)-(3) above are satisfied, Victim Services shall review the request with facility staff as needed, and upon a recommendation by Victim Services to approve the visit, the facility may allow the visit. If the victim allowed visits is a minor, all limits that apply to minor visitors shall apply. Approval of victim contact for visits during incarceration is not binding upon release to post-release supervision; after release, Parole shall determine whether to approve victim contact after consultation with KDOC Victim Services.

3. Disallowed Property

- a. Sex offenders shall not be permitted to own, borrow, view, transport, or have in their possession or assigned living quarters the following:
 - (1) Sexually explicit material;
 - (2) If the offender has had minor victims, any photograph or image in any form of persons under the age of 18; or
 - (3) Any other item of property including photographs that have been identified by the treatment provider as related to the sex offender's sexual offending behavior.
- b. Possession of these prohibited materials by a sex offender during incarceration shall be considered a violation of K.A.R. 44-12-313.
 - (1) If possession of property results in a disciplinary report for a sex offender, a copy of the material leading to the write-up shall be retained with the disciplinary report and made available to the Director of Sex Offender Management or the Attorney General's Office, if/as necessary related to proceedings under the Sexually Violent Predator Act, either by imaging (if the image is clear) or retaining the hard copy as evidence.

4. Sexual Victimization and Abusiveness (PREA)

- a. Sex offenders shall be reviewed on an ongoing and periodic basis to ensure that job assignments, housing and program placements are not contributing to any sexual victimization and/or abusiveness pursuant to IMPP 10-139.

D. Sex Offender Incarcerated on a Parole Revocation

- 1. If a sex offender is revoked during post-release supervision and the conduct leading to the revocation involved sexual acting out, sexual preoccupation, or any other behavior that suggests this offender has elevated his/her risk to sexually reoffend, the parole officer and/or the unit team counselor shall notify the Sex Offender Specialist in Reentry in Central Office.
 - a. The Director of Sex Offender Management or designee shall determine whether to process the offender through MDT again.
- 2. The unit team counselor shall consult with the SOTP provider about any modifications/updates that may be needed in the offender's release plan or any form of a relapse prevention plan developed during treatment to mitigate risk and support success. Consideration shall be given to any matters that are sexual in nature in the violation report.

III. Release Planning

A. Residence planning for sex offenders shall be in accordance with IMPPs 14-124A and 11-117.

- 1. Consideration shall be given to the following:
 - a. Results of any completed risk assessment(s);
 - b. Recommendations from the Sex Offender Treatment Provider, including information in the discharge summary;
 - c. Recommendations from the Clinical Services Report, if one was completed for the offender to be reviewed under the Sexually Violent Predator Act;
 - d. Registration requirements;
 - e. Any special sentencing guidelines (e.g., lifetime supervision and lifetime electronic monitoring (GPS) for Jessica's Law offenders);
 - f. Any imposed special conditions, (e.g., orders of no return, no-contact orders, or electronic monitoring); and
 - g. Details of the residence and residence provider, including:
 - (1) Relationship of residence provider to offender;
 - (2) Proximity to victim(s) and/or their families' home, work, or school;
 - (3) Minors in the home; and
 - (4) Proximity to daycares, schools, or other areas where children may congregate.

2. All residence plans shall be investigated fully, including a conversation with the residence provider. Denials shall not be made solely on the basis of having minors in the home or in the neighborhood. All options shall be considered where the following interventions can be used:
 - a. Developing safety plans (addressing what to do when minors are around).
 - b. Allowing contact with certain minors (i.e., those within the home).
3. The state of Kansas has no restrictions on the location of a registered sex offender's residence in relation to schools, playgrounds, child daycare centers, etc.

IV. Post Release

- A. Offenders managed as sex offenders shall be identified and supervised during post-release supervision in accordance with IMPP 14-124A.

V. Sex Offender Treatment

- A. Offenders managed as sex offenders shall be assessed by the treatment provider at admission to determine level of treatment needed.
 1. If at any time during incarceration or post-release supervision it is clinically indicated (including by an assessment by the SOTP provider, through a Clinical Services Report, or otherwise) for an offender to participate in SOTP, and the offender is not managed as a sex offender, s/he shall be required to comply with the conditions of sex offender management in this policy, and with the conditions of the sex offender handbook on post-release supervision, for the duration of the treatment program.
- B. Treatment shall be provided in correctional facilities, targeted to offenders who are moderate- and high-risk to sexually reoffend. Treatment shall include delivery of a curriculum that relies on a cognitive-behavioral approach, teaching strategies for avoiding sexual offending and related behaviors, with emphasis on skill-building activities to assist with cognitive, social, emotional and coping skills development, with a goal of increasing the value participants place on pro-social thoughts and choices. The curriculum shall include orientation, readiness, motivational engagement, sexual arousal control, cognitive restructuring, emotional regulation, social skills, and relapse prevention. Treatment shall also include completion of a sex history and baseline polygraph during the core curriculum/program, and advanced skills practice and maintenance polygraphs thereafter.
- C. As often as possible, the sex offender who is assessed as needing treatment shall complete treatment during incarceration, moving to Advanced Practice once released to post-release.
- D. Treatment in the facility and in parole can be supplemented as necessary with non-traditional strategies for non-traditional offenders (including low functioning, high rates of psychopathy), with clinical interventions, with referrals to treatment, and with any other interventions as deemed necessary by the treatment provider.
- E. During incarceration, the treatment provider shall provide updates to unit team staff in the form of a brief entry in TOADS (emailing the unit team counselor when the entry has been made), describing the attendance, participation and progress; once when the offender is half-way through treatment; and otherwise if a specific event warrants doing so.
- F. When a sex offender completes treatment, a discharge summary shall be completed within 10 business days of the date the offender completes SOTP.
- G. Sex offenders shall be placed in a group for ongoing treatment/aftercare and/or Advanced Practice in the community as soon as possible after release, and in no event any later than 10 business days after release.

- H. In the community, treatment progress shall be reviewed after a year, and a decision made about further treatment by the clinical supervisor, therapist, parole supervisor and parole officer.
1. If a decision is made to suspend treatment requirements, this shall be documented and the Director of Sex Offender Management or designee shall be notified to make an entry in OMIS.
 2. Sex offenders whose treatment obligation has been suspended shall be reviewed thereafter to ensure a return to treatment if/when necessary, as follows:
 - a. If at any time a concern arises known to Parole or the provider indicating the offender needs to be reviewed again, based on behavior, that should be done.
 - b. For any sex offender who falls into the categories listed below, the provider shall track these cases and ensure they are reviewed every four (4) months with parole to determine whether further review or change in treatment status is needed. If no issues arise within twelve (12) months, contact can be reduced to every six (6) months, and thereafter ended if no issues arise.
 - (1) The sex offender has lifetime parole or a sentence discharge date two (2) years or further away;
 - (2) The sex offender was rated as high in likelihood for being filed on under the Sexually Violent Predator Act through the Multi-Discipline Team;
 - (3) The sex offender has a paraphilia diagnosis;
 - (4) The sex offender has multiple sex offense sentencing dates (i.e., multiple sexual offenses, not just multiple counts resulting from one sentencing occasion); or
 - (5) Any other circumstances that the treatment provider and Parole believe warrant ongoing review.
- I. Certain situations may require the use of the non-contracted provider for sex offender treatment in the community, which is to be approved in advance by Parole Director, in consultation with the Director of Sex Offender Management as needed. These situations shall be governed by IMPP 14-124A.

VI. Sex Offender Overrides

- A. A Sex Offender Override Panel is established to process and decide override requests presented pursuant to this IMPP.
1. The Sex Offender Override Panel shall consist of no less than four (4) members appointed by the Secretary of Corrections or designee.
 - a. The panel shall consist of the Director of Sex Offender Management, a qualified and independent clinician, and representatives from Facilities Management and Parole Services.
 - b. The Director of Victim Services or designee is a nonvoting member and shall attend panel meetings to give input for consideration in panel decisions.
 2. Each member of the Sex Offender Override Panel shall have one (1) vote and decisions shall be made by majority vote of the membership with the Deputy Secretary of Facilities Management (facilities) or Deputy Secretary of Community and Field Services (parole) making the decision in the case of a split vote.

- B. Written requests may be submitted to modify the method of management as a sex offender, including, but not limited to, the following:
1. To change the offender's "managed as" status.
 - a. An offender may ask that s/he no longer be managed as a sex offender.
 - b. Any staff person may ask that an offender become managed as a sex offender due to sexually deviant behavior during incarceration as established by a due process disciplinary hearing.
 - c. Any staff person may ask that an override from "managed as" status from an earlier incarceration be rescinded.
 - (1) Per Section I.C.1. above, if an offender is admitted who had an override from being managed as a sex offender in a previous incarceration, that override shall be referred to the Director of Sex Offender Management or designee to review to determine if it should be rescinded.
 2. To be relieved of the requirement to participate in Sex Offender Treatment;
 - a. If the treatment provider has indicated the offender is low risk enough that s/he does not require treatment, per Sections I.F. and II.A.1.a. above, an override is not necessary to remove treatment from the offender's program plan.
 3. To be approved for contact with a minor family member (not a victim—see Section II.C.2. above regarding contact with victims) while incarcerated.
 - a. Per Section II.C.1 above, the override request should be sent only:
 - (1) If the offender has only adult victims; or
 - (2) After the offender has successfully completed SOTP, if the offender has minor victims and the "Romeo and Juliet" exception does not apply.
 - b. The override committee may place any condition deemed necessary on approving visits with a minor.
 - (1) Facility staff shall then determine if the condition can be satisfied given the visiting facilities.
 - (2) If the condition cannot be met, the visit shall not be allowed.
 - c. IMPP 14-124A addresses when an offender is allowed contact with a minor family member while on post-release supervision. The decision by the panel during incarceration does not control the decision during post-release supervision, and the offender shall be notified by the panel.
 4. To be approved for mail, email or phone contact with a minor family member while incarcerated.
 - a. This decision can be made at the facility level. The facility may send this issue to the override panel if they need the panel to decide it.
- C. Procedure for an Override Request
1. An override request shall be made by completing the Override Request form (Attachment A).

2. The override request form shall be completed by the unit team counselor or parole officer assigned the case and shall include all relevant information necessary for the Override Panel to consider the request.
 - a. Relevant information to review and reference includes the sex offender evaluation at admission, the RDU report, treatment records, any existing CSR, and disciplinary reports. Those items do not have to be attached, but shall be referenced when relevant to the request.
 - b. If the offender is an interstate compact, other risk information not available in OMIS should be included, including an LSIR score from the sending state if available.
 - c. The unit team counselor or parole officer shall include any recommendation s/he may have concerning the override request, whether the request was initiated by the offender or staff.
3. The override request shall be reviewed at the facility or parole office level, and once approved by the warden/parole director or designee, shall be forwarded to the Director of Sex Offender Management.
4. Upon receipt of an override request, the Director of Sex Offender Management or designee shall review the request determine if the request is appropriate under this policy.
 - a. If the request is not appropriate under this policy, it shall be returned to the facility or parole office so noting.
 - b. If the request is appropriate under this policy, the Director of Sex Offender Management or designee shall:
 - (1) Gather any additional information needed for the Override Panel to consider the request; and
 - (2) Place the request on the list for the next scheduled monthly meeting of the Override Panel.
5. Each request reviewed by the Override Panel shall be either disapproved or approved with conditions deemed appropriate by the Panel.
 - a. The Director of Sex Offender Management or designee shall reflect the Panel's decision in OMIS.
 - b. The offender shall be notified in writing of the decision.
6. The decision of the Override Panel shall be final and not subject to appeal or review.
7. No additional request for the same override shall be made for the same issue unless there is a change in circumstances, including if the offender has taken steps recommended by the Panel when deciding the override.
 - a. If the same issue is raised by a subsequent override request based on changed circumstances, the new circumstances shall be specifically described and the form shall reflect that this is a renewed request.
 - b. The warden or parole director shall determine if there is a sufficient change in circumstance to forward the renewed request to the Director of Sex Offender Management.

- c. If the offender-initiated request does not contain new information, the decision maker on that case shall advise the offender in writing that it shall not be considered by the Sex Offender Override Panel due to no new information.

VII. Notification to Offenders to be Managed as Sex Offenders & Due Process Hearing

- A. Offenders shall be informed, both verbally and in writing, that they are managed as sex offenders per this policy.
 1. If the conviction requiring such management is not the current commitment offense, notification shall include the name of the conviction offense, the year and jurisdiction of the offense if in Kansas, or the state of conviction if not in the state of Kansas.
 2. Offenders managed as Sex Offenders due to a finding by the Sex Offender Override Panel shall be notified in writing by letter originated by the Director of Sex Offender Management, routing through the warden/parole director.
- B. If an offender is entitled to a due process hearing before being managed as a sex offender per the definition section of this policy, the following procedure shall be followed:
 1. The offender shall be served, no less than 72 hours before the scheduled hearing, with the Due Process Hearing Notice at Attachment B.
 2. The offender shall complete and submit to the hearing officer, at least 48 hours before the scheduled hearing, the Offender Request for Witness form at Attachment C.
 3. The Director of RDU or designee who shall serve as the hearing officer for the hearing shall determine which witnesses will be allowed to testify, taking into consideration the following factors:
 - a. the need to keep the hearing within reasonable time limits;
 - b. the need to prevent any risk of retaliation or reprisal;
 - c. the need to prevent the undermining of authority;
 - d. the need to prevent disruption;
 - e. the need to avoid irrelevant, immaterial, or unnecessary testimony and evidence;
 - f. the need to reduce or prevent security hazards that could be presented in individual cases;
 - g. the need to prevent the creation of undue risk to personal or facility safety;
 - h. the availability of staff to escort, monitor and otherwise manage persons coming into the facility to serve as in-person witnesses;
 - i. the need for the prompt, efficient and effective resolution of the question of whether to manage an offender as a sex offender, with accurate and complete fact-finding consistent with the level of process required by law;
 - j. any victim concerns of which the RDU Director or designee serving as the hearing officer becomes aware, including consultation with KDOC Victim Services; and
 - k. any other security or administrative issue that arises related to the admission of the witness' testimony.

4. At least 24 hours prior to the scheduled hearing, the hearing officer shall respond to the inmate request for witnesses:
 - a. indicating which witnesses will be allowed to testify; and
 - b. documenting on Attachment C any decision to deny a witness request, indicating the reason(s) for the denial.
5. A hearing shall be held on the date/at the time indicated.
 - a. Witnesses shall be permitted to testify by written statement provided by the offender, by telephone, or in person.
 - b. The offender shall be solely responsible for notifying and producing the offender's witnesses, and no arrangement or cost shall be the responsibility of the KDOC.
 - c. The consideration of any documentation offered by the offender shall be in the discretion of the person designated as the hearing officer.
 - d. In instances where there is no conviction of a sex offense, the offender is permitted to present evidence in regard to whether the behavior documented in the prosecutor's charging affidavit actually occurred, whether such behavior was sexually motivated, or both.
 - e. In instances of a municipal court conviction of a sex offense, the offender is permitted only to submit evidence in regard to whether the behavior involved and underlying conviction were sexually motivated.
6. Within 24 hours after the hearing, the Director of RDU or designee who served as the hearing officer shall provide to the offender a written decision, setting forth the hearing officer's determination to manage him/her as a sex offender or not and the reason(s) for the determination.
 - a. This shall be a final decision and no appeal shall be allowed.
 - b. Any offender determined to be managed as a sex offender under this due process procedure shall have the same option as any other offender managed as a sex offender to seek modification of some or all of the decision through the override process.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

42 U.S.C. 15601, *et seq.*

K.S.A. 21-6419; 21-6420; 21-6421; 21-5426; 21-5507; 59-29a02, *et seq.*; 74-7555.

K.A.R. 44-6-115a; 44-7-104; 44-12-211; 44-12-212; 44-12-313; 44-12-601

IMPP 10-111; 10-113; 10-139; 11-102; 11-106; 11-107; 11-116; 11-117; 14-103; 14-124A; 15-101

ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	Sex Offender Override Request	1 page
B	Due Process Hearing Notice	1 page
C	Offender Request for Witness	1 page

SEX OFFENDER OVERRIDE REQUEST

OFFENDER NAME AND KDOC #:

KDOC FACILITY/PAROLE OFFICE:

SEX OFFENSE CONVICTION/DISCIPLINARY BEHAVIOR;

REQUEST INITIATED BY: _____ OFFENDER _____ STAFF

THIS IS A REQUEST FOR:

- _____ Relieving offender identified from being managed as a sex offender.
_____ Managing offender as a sex offender for KDOC purposes who is not already classified as a sex offender.
_____ Relieving offender already identified as a sex offender per KDOC policy regarding:

- _____ **Contact visits** with minors (**facility**)
_____ **Non-contact visits** with minors (**facility**)

Name, Age (DOB), and Relationship of Minor to Offender:

_____ Other (e.g., mail, email, phone contact)

1. Why is this request being initiated?
2. What has changed since the evaluation completed at RDU?
3. Any observed behavior that merits comment?
4. Any Disciplinary Reports of a sexual nature?
5. Counselor comments/recommendations:

Counselor/Parole Officer's Name

Date

Warden/Regional Parole Director recommendations/comments:

_____ **Approve** _____ **Disapprove**

Signature of Warden/Regional Parole Director

Date

Sex Offender Override Committee Decision

_____ Approve _____ Approve with Conditions _____ Disapprove

Comments/Conditions:

Date

Signature of Committee Chair

Due Process Hearing Notice

Offender Name & KDOC #: _____ Date: _____

You are hereby notified that KDOC proposes to manage you as a sex offender per IMPP 11-115A for the reason indicated below.

You will be granted a due process hearing on _____ at _____.
Date Time

NOTE: The hearing should be set 72 hours after this notice is served. **Date/time served:** _____

____ KDOC proposes to manage you as a sex offender based on the attached prosecutor's affidavit in the case captioned on the affidavit, which indicates your actions were sexually motivated, where you were charged with the sex crime indicated below, even though you were not convicted of this crime.

_____ per _____
Crime Statute

____ KDOC proposes to manage you as a sex offender based on the municipal court conviction(s) listed below, which suggest your actions were sexually motivated. You will have the opportunity to present your version of the facts only on the question of whether your actions were sexually motivated, with any supporting evidence that you believe we should consider in determining whether your actions were sexually motivated.

(List municipal court case names/numbers/courts):

You will have the opportunity to tell us any mitigating circumstances that we should consider, with supporting evidence, before making a final decision. You will not be permitted to tell us these convictions did not occur or that they were in and of themselves invalid.

You will find an Offender Request for Witness form attached. **You must complete and return this form within 24 hours of receiving this notice, so we receive it 48 hours before the scheduled hearing. You will receive a response about your request for witnesses within 24 hours after we receive it, so you have it 24 hours before the scheduled hearing.** It is your responsibility to have your witnesses present, in person, by phone, or through written statement, if approved. The KDOC will not subpoena witnesses, or be responsible for witnesses being present or available.

Date

Printed Name/Title of Designated Hearing Officer

Signature of Designated Hearing Officer

Offender Request for Witness

Witnesses Requested – YOU MUST COMPLETE THIS FORM AND PROVIDE IT TO THE HEARING OFFICER WITHIN 24 HOURS, WHICH WILL BE 48 HOURS BEFORE THE HEARING

Offender Name & KDOC #: _____ Date: _____

_____ I waive my right to request witnesses.

_____ I request the following person(s) testify, in the manner indicated, on the topic indicated:

- a. Witnesses to testify by written statement. ***I will have written statements available at the time of the hearing.***

Name Position (*what are they to you*) Topic of Testimony

- b. Witnesses to testify by phone, who will be available at the number indicated, on the topic indicated:

Name Position (*what are they to you*) Topic of Testimony

- c. Witnesses to testify in person, who will be present at the facility, on time for the hearing, on the topic indicated:

Name Position (*what are they to you*) Topic of Testimony

Received from offender on _____ at _____ by _____
Date Time Staff Receiving

Response of RDU Director of Designee Who Will Serve as Hearing Officer – THIS MUST BE COMPLETED AND SERVED ON THE OFFENDER WITHIN 24 HOURS, WHICH WILL BE 24 HOURS BEFORE THE HEARING

The following witnesses are approved to testify in the form indicated on the topic indicated:

The following witnesses are disapproved to testify for the reason(s) indicated:

Date Printed Name and Position of Designated Hearing Officer

Signature of Designated Hearing Officer

Served on the offender on _____ at _____ by _____
Date Time Staff Serving